THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION No. 21563 of 2018

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

The prayer of the petitioner in this case reads as under:

> "For the reasons stated in the accompanying affidavit, the Petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent bank under the provisions of the SARFEASI Act, 2005 including in issuing the E-Auction Sale Notice dated 02.06.2018 slating the date of auction on 04.07.2018 in respect of the residential houses at 1) Plot No.A-6 bearing MCH No.6-3-251/A6 (Old No.6-3-251) in Sy.No.114 part admeasuring 180 square yds., 2) Plot No.A-11 bearing MCH No.6-3-251/A11 (Old No.6-3-251) in Sy.No.114 part admeasuring 360 square yds., and 3) Plot No.A-2 bearing MCH No.6-3-251/A2 (Old No.6-3-251) in Sy.No.114 part admeasuring 360 square yds., these all are situated at Balapura Basthi, Road No.1, Banjara Hills, Hyderabad, which are exclusively belongs to the petitioner as illegal, arbitrary and contrary to the provisions of the SARFAESI Act, 2002 and Rules of the Security Interest (Enforcement) Rules, 2002 and set aside the same and to pass such other further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

This Court had occasion to consider the validity of the action of the Canara Bank in issuing a notice under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002 (for brevity, 'the Rules of 2002'), and following it up with the publication of a sale notice under Rule 9(1) thereof before expiry of the thirty day period mentioned in the Rule 8(6) notice, in SRI SAI ANNADATHA POLYMERS V. THE CANARA BANK[1]. This Court held that in the light of the amended provisions of Section 13(8) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, the SARFAESI Act'), it is not open to the secured creditor to publish the sale notice under Rule 9(1) of the

[1] W.P.No.8155 of 2018 dated 27.06.2018

Rules of 2002 prior to expiry of the thirty day period stipulated in the notice issued under Rule 8(6) thereof.

Having suffered the aforestated judgment, Sri Dishit Bhattacharjee, learned counsel for the respondent - Canara Bank, would inform this Court that the Bank had decided to cancel the impugned e-auction sale notice dated 02.06.2018 and initiate proceedings afresh for recovery of its dues by bringing the secured assets to sale in accordance with the procedure stipulated in the SARFAESI Act and the Rules framed thereunder obtaining as on date.

In the light of this submission, challenge to the impugned e-auction sale notice dated 02.06.2018 is rendered purely academic and does not warrant consideration on merits.

The writ petition is accordingly closed. Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

Date: 27.06.2018

JUSTICE T. AMARNATH GOUD

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